

## STATEMENT

I, Sandrine HAMOUR, bookkeeper of GEVERS FRANCE (23 bis rue de Turin, 75009 PARIS, FRANCE), the French branch of the GEVERS GROUP, hereby declare

That this statement is made to file a petition for reconsideration against the decision of September 05, 2012 on the "petition to revive-unavoidable", filed April 18, 2012, to accept an "unavoidably" delayed payment under 37 CFR 1.378(b) relating to the first maintenance fee (due by December 11, 2006) of the following expired US patent, and therefore to reinstate it:

Patent No.: 6,577,403 B1

Title: ACHROMATIC OPTICAL INTERFEROMETER WITH CONTINUOUSLY ADJUSTABLE SENSIVITY

Inventors: Jérôme PRIMOT and Nicolas GUERINEAU

Assignee: ONERA (Office National d'Etudes et de Recherches Aéronautiques),  
29-avenue de la Division Leclerc, 92 CHATILLON, FRANCE

Application No.: 09/592,963

Filed: June 13, 2000

Date of patent : June 10, 2003

Priority Data: June 17, 1999 (FR), 99 07804.

(Our Reference ONE0008US)

This statement supplements my statement of March 19, 2012.

From March 16, 2006, (Exhibit ML9: permanent contract of 02/10/06) up to March 31, 2006, I was bookkeeper and annuity-managing clerk under my responsibility and had assistants helping her. She received information about a clerk of the MARTINET & LAPOUX office under the Roland LAPOUX responsibility. I had assistants helping in my tasks. I replaced the old bookkeeper and annuity clerk, Alain PLANNIER. I collected into every detail information on the various tasks and operations relating to the accountancy and more particularly the maintenance fee reminder and payment procedure from Alain PLANNIER. In addition, Roland LAPOUX and the assistants working with Alain PLANNIER gave me complementary information. Alain PLANNIER left the MARTINET & LAPOUX office on April 21, 2006.

From March to June 2006, I used the old patent management software MisCab from the French firm Memotech. From April 2006, I started to test and use the intellectual property management software Lola of the French firm OrdiPat.

I received training on Lola patents between April and July 2006: April 14, 2006 for training of patents (Exhibit ML6) (Exhibit ML7, Joëlle AZEVEDO in OrdiPat);

Invoice 060958 of 04/19/06: Training only Madam Sandrine HAMOUR in PATENT on 04/14/06 (in French "Formation BREVET le Vendredi 14 Avril 2006");

Invoice 061115 of 05/11/06: Training three employees, including Madam Sandrine HAMOUR, in LOLA - TARIFFS MANAGEMENT on 05/04/06 Madam Sandrine HAMOUR (in French "Formation LOLA - GESTION DES TARIFS Le Jeudi 4 mai 2006");

Invoice 061127 of 05/23/06: Training four employees, including Madam Sandrine HAMOUR, in LOLA - Annuities (maintenance fees) on 05/15/06 (in French "Formation LOLA - ANNUITES Le Lundi 15 mai 2006");

Invoice 061258 of 06/23/06: Training four employees, including Madam Sandrine HAMOUR, in LOLA - AUTOMATIC PROCESSINGS on 06/09/06 (in French "Formation LOLA - TRAITEMENTS AUTOMATIQUES Le Vendredi 9 juin 2006");

Invoice 061394 of 07/25/06: Training three employees, including Madam Sandrine HAMOUR, in LEVELING I and II (patents and annuities) on 07/05/06 and 07/12/2006 (in French "Formation MISE A NIVEAU I et II Les Mercredis 5 et 7 juillet 2006").

At the start of May 2006, by the data migration from MisCab to Lola, Mr. LAPOUX gave me instructions not to delay the steps and tasks of the maintenance fee reminder and payment, as there was a risk to find inadequate positions of, or to lose, some data relating to the maintenance fees. The software replacement required a lot of effort and time and an overworking (training, parameterization, letter models, data checking tests, phone interviews and emails with OrdiPat, etc.) and led to consequent disturbance (e.g. operating anomalies/errors in database, software crash) in my works in the summer 2006.

The patent data migration from MisCab to Lola occurred July 4, 2006 (Exhibit ML10: OrdiPat invoice 061391 of July 25, 2006 for data migration: Writing the data recover from the software Memotech ("Ecriture de la reprise des données en provenance du logiciel Memotech" in French)). After the migration up to the start of 2007, there were free data access and non-locked processing of the steps of the procedure of maintenance fee payment for the assistants and myself to thereby check, store and modify data and to run any payment procedure step.

To reply to the objections in the USPTO decision of September 05, 2012, Mr. LAPOUX submitted many documents (invoices, journals of Lola, tables from DENNEMEYER, etc.) extracted from the MARTINET & LAPOUX archives and classified by chronological order. I had the three portfolios of the foreign patent applications and foreign patents with due dates in November 2006, December 2006 and January 2007.

To identify the error that was the cause of the delay in timely paying the first maintenance fee of US patent 6,577,403, Mr. LAPOUX asked me to set forth in a detailed way on the base of the documents:

- 1) The "manual" and "automatic" procedures of maintenance fee payment in Lola,
- 2) The maintenance fee payment with Lola in MARTINET & LAPOUX by confirming it with the maintenance fee payment relative to due dates in November 2006 and January 2007, and
- 3) The steps of the maintenance fee payment for due dates of foreign patent applications and foreign patents in December 2006.

#### PROCEDURES OF MAINTENANCE FEE PAYMENT IN LOLA

(Exhibit ML7, Joëlle AZEVEDO in OrdiPat) (Exhibit ML1: Lola Intellectual Property Suite; page 8/21, Annuity; 10/21, 11/21 Annuity payment/formalities; page 16/21 "US patent granting date starts payment of maintenance fees"; Page 17/21, Under "Automatic processing": "Management of automatic job processing for set of cases. Gathers the different actions used by the automatic processing management to effect immediate or postponed work... Generate documents such as letters, invoices, as well as reports in which concerned cases are listed. Specific tabs devoted to setting by theme (annuities, trademarks, terms) and to the launching jobs"; Page 17/21, Under "Deadline": "Management of specific and unlimited queries to gather cases having pending terms in the procedure")

States of a maintenance fee of a patent application or foreign patent in Lola (Exhibit ML7)

"In progress" ("*En cours*" in French): the next due date of the maintenance fee was not reminded to the client.

"Reminded" ("*Relancé*" in French): the next due date was reminded to the client within the normal period or within the extra period (of six months with surcharge).

"To be paid" ("*A payer*" in French): The payment instructions from the client were received and entered.

"Payment" ("*Payé*" in French): The payment order of the maintenance fee to the office or the correspondent (DENNEMEYER) was made, but the invoice was not established.

"Invoiced" ("*Facturé*" in French): The invoice of the maintenance fee was created, but the payment order to the office or the correspondent is not made.

"Processed" ("*Traité*" in French): The payment order and the invoice were made. Because of the state "Processed", the next maintenance fee of the patent application or foreign patent passed to the state "In progress" with its own due date.

There were two procedures of maintenance fee payment in Lola: a "manual" procedure and an "automatic" procedure.

In the manual payment procedure of a maintenance fee, the previous states were successively accessible, or according to a different order. For example, the user could decide to invoice leading to the transition from "To be paid" to "Invoiced", before enabling the payment order of the maintenance fee to the office or the correspondent, resulting in the transition from "Invoiced" to "Processed".

I used the manual payment procedure to familiarize myself with the Lola commands and screens up to towards July-August 2006 after the data migration from MisCab to Lola, and to verify or modify data as well as to pay and to invoice one or a few maintenance fees. I had the possibility to request the states of the maintenance fees for example as a function of particulars on a patent application or foreign patent, as the client (owner) and/or the country, and/or a period of due dates as a month or a week.

The automatic payment procedure of a maintenance fee included successively the three states in the following order: "Reminded", "To be paid" and "Processed". I used the automatic payment procedure for groups of patent applications and foreign patents, e.g. all the applications and patents of a predetermined client or a application and patent family (same portion of internal reference, or claiming a common date of priority) having due dates within a predetermined period as a month. On a displayed table of maintenance fees with the state "Reminded" that I had requested for a due date period and/or a client and/or a application and patent family for example, I entered a date of payment instruction from a client common to maintenance fees and I marked maintenance fees to be paid in correspondence to received payment instructions, in the requested table. The state of the marked maintenance fees changed from "Reminded" to "To be paid". After having stored one or more operations with different dates of payment instructions from one or more clients, I requested the automatic payment procedure immediately, or rarely at a subsequent date, and entered a date of invoice as the current date, or sometimes another date. I launched the automatic payment procedure that carried forward the state of the marked maintenance fees from "To be paid" to "Processed". Lola processed all the maintenance fees at the state "To be paid", stored the date of automatic processing execution as a date of the payment order to the office or the correspondent (DENNEMEYER), and created the WORD files of the invoices with the entered date. For a patent application or a patent, the maintenance fee succeeding to a

"Processed" maintenance fee was then accessible with the state "In progress" and its own due date.

The automatic payment procedure gave me a first table called as a monthly journal of reminders on order ("JI RI mensuelles s'ordre" in French), and a second table called as a journal of payment orders ("Journal des Ordres de Paiements" in French). The bottom of the pages of the journal indicated the date and the time of the generation of the journal requested from the administrator/user to Lola (in French "Demandé par admin. le" day/month/year hour : minutes).

The journal of reminders included the maintenance fees having the state "Reminded" and due dates within a predetermined month. In the journal of reminders (e.g. 09/28/2006, 11/16/2006; Exhibits D11, D18), the maintenance fees are classified according to the client (party for invoicing), then the country. Each maintenance fee on a line of the journal of reminders was defined by the country ("*Pays*" in French), the number of patent application or patent ("*N° brevet*" in French), the date of filing (day/month/year; "*Date brevet*" in French), the due date (day/month/year; "*Echéance*" in French), the number of the maintenance fee ("*Q*" in French), the amount including all taxes ("*Montant TTC*" in French), the correspondent (DENNEMEYER) for a foreign patent application or foreign patent and the Lola designation of the client having given the payment instruction ("*Execut. DO Annuité*" in French). I referred to this updated journal for verifying data after having entering a date of payment instruction (state changed to "To be paid") and for supervising the maintenance fees free of payment instruction (state "Reminded") and, if necessary, for making another reminder without or with surcharge (extra fee).

The journal of payment orders only resulted from the automatic payment procedure. It included the processed maintenance fees for which I had recently transmitted or I had to transmit within the next few days the payment order to the office or the correspondent (DENNEMEYER) and for which Lola created invoices. In the journal of payment (e.g. 08/22/06, 09/20/06, 10/23/06; Exhibits D4, D7, D12), as in the journal of reminders, the maintenance fees were classified according to the client (party for invoicing), then the country. Each maintenance fee on a line of the journal of payment orders is defined by the country ("*Pays*" in French), the number of patent application or patent ("*N° brevet*" in French), the date of filing (day/month/year; "*Date brevet*" in French), the due date (day/month/year; "*Echéance*" in French), the number of the maintenance fee ("*Q*" in French), the amount including all taxes ("*Montant TTC*" in French) and the Lola designation of the client having given the payment instruction ("*DO Annuité*" in French). I referred to this updated journal of payment orders to pay the maintenance fees at the French Patent Office or the European Patent Office and to fill-out the monthly table of maintenance fee reminder from DENNEMEYER, to checking the invoicing and to edit letters of payment orders intended to DENNEMEYER and concerning maintenance fees not included a monthly reminder table from DENNEMEYER.

#### MAINTENANCE FEE PAYMENT WITH LOLA IN MARTINET & LAPOUX

I dealt with the maintenance fees always as a function of the due date month and the "country" of each patent application or each patent. I paid the maintenance fees of the French patent applications, the French patents and the European patent applications directly to the French and European patent offices, and the maintenance fees of the foreign patent

applications and the foreign patents to the foreign patent offices through the correspondent DENNEMEYER (55 rue des Bruyères, L-1274 Howald, LUXEMBOURG). Thus I separated the management and the portfolios of the maintenance fees of the French patent applications, the French patents and the European patent applications, from the management and the portfolios of the maintenance fees of the foreign patent applications and the foreign patents ("foreign" means non French; in particular "foreign patents" also comprise national parts of European patents for states other than France, and "foreign patent applications" also comprise national patent applications filed in states other than France). At least once a month, I compared the monthly table of the maintenance fee reminder from DENNEMEYER to a monthly table (journal of reminders) derived by the software Lola.

For the foreign patent applications with first annual maintenance fees to be paid before the granting of the corresponding foreign patent (the majority of the applications), the assistants had a duty to store the particulars of the foreign patent application and DENNEMEYER as a correspondent in Lola and to transmit the particulars of the patent application to DENNEMEYER, when the assistant was sending the filed documents linked to the foreign patent application to the owner..

For an issued foreign patent, not including a US patent, with maintenance fees, also called as renewal fees, only from or subsequent to the issue (e.g. a national patent issued from an European patent), the assistants, or sometimes myself, had a duty to transmit the particulars of the patent to DENNEMEYER when the assistant was sending the official patent to the owner. For an issued foreign patent, including a US patent, the assistants, or sometimes myself, had a duty also to store the particulars of the foreign patent and to store DENNEMEYER as a correspondent in Lola, if it was not already done, before sending the official patent to the owner.

For the maintenance fees of US patents, every month I derived by means of Lola a list of the US patents having a maintenance fee, particularly a first maintenance fee, to be reminded and submitted it to a verification by Mr. LAPOUX before editing the reminders. Mr. LAPOUX compared the submitted list to a personal list updated as function of the US patent deeds forwarded to the owners, I transmitted the particulars of the US patent to DENNEMEYER after having received payment instructions from the client/owner relating the payment of the first maintenance fee.

In June and July 2006, Mr. LAPOUX and I adapted the monthly procedure of the maintenance fee payment to the functionalities of the new software Lola.

Every month (e.g. M = September), from the 15th about, I performed the following tasks relating to maintenance fee payment procedure with the aid of Lola.

P1) Reminders ("In progress" → "Reminded")

By the 20th of month M (September) about, requesting the monthly reminder journal of the maintenance fees due on month M+3 (December) (i.e. by at least 2 months from the due dates) and editing and transmitting the first payment reminders to the clients having the applications and patents included in the journal.

During one year from the data migration to Lola, i.e. up to July 2007, checking with the reminders of the month M (e.g. September 2006), that each payment instruction for a applications or patent (in force) in the portfolio of month M+2 of the preceding year (November 2005) correspond to a reminder of maintenance fee due on month M+2

(November 2006) of the current year. This enabled to identify applications and patents in force that had not been transferred with a maintenance fee state "In progress" into Lola.

#### P2) Achieved Reminders

From the end of month M-1 (August) up to the end of month M (September), checking with the aid of the associated journals of reminders that each remind letter for a due date in the month M (September) or M+1 (October) is associated with a payment or non-payment (abandonment) instruction; otherwise reminding the client by fax and/or phone.

Towards the end of month M, checking by means of the associated journal of reminders that each remind for a due date in the month M+2 (November) is associated with a payment or non-payment (abandonment) instruction; otherwise transmitting a second remind to the clients by fax.

#### P3) Reminders with surcharge

Beginning the reminders with surcharge as soon as possible.

By the 20th of month M (September 2006) about, requesting the journal of the maintenance fees with an extra period of 6 months ending in month M+4 (January) or M+5 (February) if the reminders with surcharge have not been transmitted so before. Comparing with the reminders without response from the clients. Editing and transmitting reminders of maintenance fees with surcharge to the preceding clients.

#### P4) Payment instructions from the clients/owners ("Reminded" → "Processed")

P4.1) Replacing reminders in the portfolios respectively by the payment or abandonment instruction letters received from the owners during the current month M.

P4.2) Prior to the monthly payment Lola procedure towards the 20-25th of month M (September) about, entering all the dates of the payment instructions and the dates of the abandonment instructions relating to French applications and patents and European applications and patents irrespective of the due dates.

Prior to the monthly payment Lola procedure towards the 20-25th of month M (September) about, entering all the dates of the payment instructions and the dates of the abandonment instructions relating to the foreign applications and patents having due dates within month M+2 (November) and received from the owners during the current month M (a national patent (e.g. German (DE) or English (GB)) resulting from a granted European patent is considered as a foreign patent).

P4.3) At the latest between the 20-25th of month M (September) about, launching at least once the monthly payment Lola procedure that will be automatic when the number of applications and patents in a patent family or for a client is high, or that will be manual when I need to check or modify data relative to applications and patents, maintenance fees, tariffs, etc. Editing the journal of payment orders and the invoices.

P4.4) For the French applications and patents and the European applications and patents, verifying the edited invoices and the journal of payment orders by comparison with the payment instruction letters from the clients, preparing the order of payments to the French and European Offices for signature by Mr. LAPOUX and transmitting them. On receiving payment instructions of a maintenance fee from a client after the monthly payment Lola procedure and precisely at the end of month M, accomplishing again at least the payment

order to the Office, or the previous tasks if possible, and ending the procedure with the payment procedure on the next month M+1 at the latest.

P4.5) For the foreign applications and patents, verifying the edited invoices by comparison with the payment instruction letters from the clients, relating to maintenance fees having due dates within month M+2 (November). Filling-out the maintenance fee remind table of month M+2 received from DENNEMEYER usually towards the start of month M-1 (August), by comparison with the payment instruction letters from the clients. On the line mentioning a maintenance fee of a application or a patent in the DENNEMEYER remind table and in the right-hand column, writing "P" for "maintenance fee to be paid" when we received payment instructions, or "C" for "to abandon" when we received abandonment instructions, and "H" for "to await subsequent instructions" when the client did not transmitted instructions. For applications and patents having maintenance fees associated to received payment instruction letters (and included in the journal of payment orders when edited) and not included in the DENNEMEYER reminder table, editing letters of payment orders to DENNEMEYER for the due maintenance fees of these applications and patents. Transmitting the filled-out remind table and the letters of payment orders to DENNEMEYER.

P4.6) On receiving payment instructions of the maintenance fee of a foreign application or a foreign patent due on month M+2 (November) from a client after the monthly automatic payment Lola procedure and at the end of month M, accomplishing at least the payment order by writing "P" on the DENNEMEYER remind table, or by changing "H" to "P" on a copy of the DENNEMEYER remind table when applicable, and transmitting it to DENNEMEYER. Ending the procedure (entering the instructions in Lola, editing the invoice from Lola, transmitting the letters of order of payment) with the payment procedure on the next month M+1 at the latest.

P4.7) On receiving instructions of the maintenance fee of a foreign application or a foreign patent with a due date within month M+1 (October), or within month M (September) by the due date, from a client after the monthly payment Lola procedure, transmitting the payment order to the DENNEMEYER on a copy of the DENNEMEYER remind table of the month M+1, or M (transmitting without delay) by changing "H" to "P", or transmitting a letter of payment orders to DENNEMEYER when applicable. Then ending the payment procedure (entering the instructions and editing the invoice).

More generally, checking all the steps are OK by the start of a due date month (November 2006).

P5) Before paying an invoicing table from DENNEMEYER, usually received a few days after the order of payment, checking the maintenance fees in the invoicing table correspond to the maintenance fees with the payment orders "P" for "maintenance fee to be paid" in the last transmitted reminder table and/or the maintenance fees in the letters of orders of payment. Otherwise if a difference appears, calling DENNEMEYER to pay a maintenance fee with extra fee.

P6) On receiving of an official receipt or statement of maintenance fee payment from a Patent Office via DENNEMEYER, checking with respect to the payment instructions and orders and putting the receipt or statement in the corresponding portfolio. After four months from the due dates, archiving the portfolio after having received all the receipts and

statements proving the payment of the maintenance fees relatives to the due dates associated with the portfolio. Otherwise if a difference appears, calling DENNEMEYER.

When the reminder is quarterly, as for the Petitioner, ONERA, I should transmit the first reminders by three months from the start of the quarter including the due dates of the quarter.

During my responsibility for the maintenance fees of MARTINET & LAPOUX up to June 30, 2008, I endeavored to follow the scheme of the maintenance fee payment tasks, but I should do the tasks of accountancy that too necessitated to meet due dates particularly at the end of month. However, I took great care over the payments of the maintenance fees by the due dates.

The word "patent" means indifferently a patent application or a patent hereinafter.

By way of example, I give the exhibits that I was able to execute in 2006 the above payment procedure in place for maintenance fees of the foreign patents without any error in the due dates.

FIRST EXAMPLE: PAYMENT OF MAINTENANCE FEES OF FOREIGN PATENTS WITH DUE DATES IN  $M+2$  = NOVEMBER 2006 WITH LOLA, AT THE END OF THE MONTH  $M$  = SEPTEMBER 2006

n1) Reminders of August 18, 2006 (Exhibit N1) by at least 2 months before the due dates: 3 patents with our reference of family DIV0124EP of November 12, 1999 with countries DE/ES/GB and 3 patents of November 17, 2003 with our reference of family DIV0190EP (Exhibit N2) with countries DE/ES/SE for the client SOFITEC. Instructions of payment received on September 6, 2006 from SOFITEC.

n2) Reminder of August 18, 2006 (Exhibit N3) relating to the first maintenance fee due on November 6, 2006 for US patent S/N 10/183,373, No. 6,557,996 (O/ref DIV0162), granted May 6, 2003, owner LAVIE. Instructions of payment received on October 2, 2006 from LAVIE.

n3) See Lola reminder journal of August 18, 2006 (Exhibit N4), pages 4/5 and 5/5, under SOFITEC, lines 1, 2, 3, 4, 7 and 8, and page 2/5 under LAVIE Philippe.

n4) Invoices 06/006529 to 06/006534 of September 18, 2006 associated to six patents DIV0124EP/DE/ES/GB and DIV0190DE/ES/SE of SOFITEC (Exhibit N5): See Lola journal of payment orders of September 18, 2006 (Exhibit N6), page 3/3, under SOFITEC, lines 1, 2, 3, 6, 7 and 8.

Invoice 06/006571 of October 23, 2006 (Exhibit N7) associated to US patent S/N 10/183,373, No. 6,557,996 of LAVIE. See Lola journal of payment orders of October 23, 2006 (Exhibit N8), page 1/3, under LAVIE, line 7.

n5) Maintenance fee reminder table of July 27, 2006 from DENNEMEYER (Exhibit N9), filled with "P" for "maintenance fee to be paid" (right-hand column) on the three lines 4 of the maintenance fees of the three patents DIV0124 DE/ES/GB for the client SOFITEC, and transmitted to DENNEMEYER on October 2, 2006 (my signature and date at the bottom and on the left) (I did not work the Wednesdays, and therefore Wednesday, October 1, 2006).



n6) Two letters of payment orders transmitted to DENNEMEYER on October 2, 2006 (Exhibit N10) for the due maintenance fees of the three SOFITEC patents DIV0190DE/ES/SER, and the first maintenance fee of US LAVIE patent S/N 10/183,373, No. 6,557,996.

n7) Invoicing table 199579 of October 6, 2006 from DENNEMEYER relating to the maintenance fees of the seven previous patents (Exhibit N11).

SECOND EXAMPLE: PAYMENT OF MAINTENANCE FEES OF FOREIGN PATENTS WITH DUE DATES IN M+2 = JANUARY 2007 WITH LOLA, AT THE END OF THE MONTH M = DECEMBER 2006.

j1) Quarterly reminder of October 27, 2006 (Exhibit N3) relating to particularly three maintenance fees of patents ONE0010SG and ONE0007DE/GB to the petitioner, ONERA, due on January 2007 (Exhibit J1).

j2) Reminders by November 24, 2006 relating to the 17th maintenance fee of two patents CNET01740DE/GB due on January 2007, to FRANCE TELECOM (Exhibit J2 = invoices; instructions received on 11/24/06).

j3) Reception of payment instructions from FRANCE TELECOM on 11/24/06 (Exhibit J2 = invoices; date of instructions) and from ONERA on 12/05/06 (Exhibit J3 = invoices; date of instructions)

j4) By December 8, 2006, payment orders of the above five maintenance fees with written "P" for "maintenance fee to be paid" on a remainder table transmitted to DENNEMEYER

j5) Reception of an invoicing table 205741 of December 8, 2006 from DENNEMEYER relating to the previous five maintenance fees (Exhibit J4).

j6) Invoicing to the clients. Lola journal of payment orders of January 23, 2007 (Exhibit J5), page 1/4, under "CNET - Fact. Ann.", lines 1 and 3; and pages 2/4 under " ONERA - Fact. Ann." and 3/4, lines 1, 7 and 9 under 7. Invoices 07/006655-6 of January 23, 2007 associated to the two patents CNET01740DE/GB (Exhibit J2) and invoices to 07/006673-79-81 of January 23, 2007 associated to the three patents ONE0010SG and ONE0007DE/GB (Exhibit J3).

j7) Between January 29 and February 28, 2007, reception of 4 listings from DENNEMEYER (Exhibit J6) to which the official receipts proving the payment of the above maintenance fees with due dates in January 2007 according to my orders of payment were attached.

STEPS OF MAINTENANCE FEE PAYMENT FOR DUE DATES OF FOREIGN PATENTS IN DECEMBER 2006

Regarding the unavoidable delay in timely paying the first maintenance fee of US patent 6,577,403 with a due date of December 11, 2006, I set forth the facts from the quarterly reminder on June 28, 2006 (Exhibit D1) to the owner/petitioner ONERA, relating to the reminders of December 2006 including the preceding due date, as the procedure of maintenance fee payment was monthly.

I follows up the chronology of the invoices of the maintenance fees due on December 2006, because Lola successively generated the numbers of the invoices by ascending order in accordance with the legal accountable instructions, and the chronology of the Lola journals at the bottom of each page: date and time). This chronology relates to the foreign patents because, as already stated, I separated the procedure of the foreign patents from the procedures of the French and European patents (FR, EP) and I had three monthly portfolios respectively for the French, European and foreign patents. With the aid of Mr. LAPOUX I had established a table of due dates in December 2006 (Exhibit D0) based on the ascending order of the invoices and therefore on the chronology. Each maintenance fee is associated to the client/owner, our reference, the date of payment instruction from the client, the date and number of the invoice, the date of payment order to the correspondent DENNEMEYER and the date of the invoice from DENNEMEYER. The maintenance fees due on December 2006 relate to 4 clients and 47 patents:  
LAVIE with 8 patents (, O/Ref: DIV162PCT),  
NACAM (ZF Systèmes de Direction Nacam, S.A.S; and NACAM FRANCE S.A.) with 12 patents,  
ONERA with 3 patents,  
PASQUINI (J&J ASSET SECURISATION) with 24 patents (O/Ref: DIV142PCT).

d1) I received the payment instructions dated July 3, 2006 from the petitioner, ONERA, relating to the maintenance fees of French, European and foreign patents due on October, November and December 2006 (Exhibit D1; letter of June 28, 2006). I dispatched the letters of payment instructions in the three portfolios of December 2006 for the French, European and foreign patents respectively and I put the old reminders into the waste-paper basket. There had three foreign patents: Canadian patent 1,338,792 (O/Ref: ONERPOUIT), US patent 6,577,403 (O/Ref: ONE0008US) and Singaporean patent 98758 2003/04539-0 (O/Ref ONE0011PCT/SG) (Reminders: Exhibit D2).

I had been unable to find again in the archives of MARTINET & LAPOUX the copy of my letters of June 28, 2006 relating to the reminders of the first maintenance fee of US patent 6,577,403 (O/Ref: ONE0008US), and the eleventh maintenance fee of Canadian patent 1,338,792 (O/Ref: ONERPOUIT) returned by the petitioner ONERA with the confirmation of the payment instruction of July 3, 2006.

d2) At the start July 2006, after the data migration towards the software Lola, I was in advance of my management of maintenance fees in accordance with the instructions of Mr. LAPOUX. I made many data verifications and tests on Lola with the other employees of MARTINET & LAPOUX and the technicians of Ordipat during July and August 2006.

On Lola I began by the payment and the first invoices of maintenance fees only for French patents by using the manual payment Lola procedure on July 19-20, 2006 (Exhibit D3, invoices 06/006477,... 06/006483... 06/006491).

At the August 2006, I dealt with invoices and payment for both the French and European patents and the foreign patents by testing and launching the Lola procedure of automatic payment. For example, on August 22, 2006, I selected at random four foreign patents with a due date at least equal to M+1, i.e. after October 01, 2006. In particular, I

entered the instructions of payment for the maintenance fees of three foreign patents NACAM with the due date of October 10, 2006 and the 11th maintenance fee of the Canadian patent 1,338,792 (ONERPOUIT) with the due date of December 12, 2006 from ONERA. Lola created the journal of payment order of August 22, 2006 (Exhibit D4, page 1, last line, and page 2, lines 1, 2 and 3-4). All the maintenance fees changed from "Reminded" to "Processed". I put away a copy of the invoice 06/006502 (Exhibit D5) relating to the 11th maintenance fee of Canadian patent 1,338,792 (ONERPOUIT) into the portfolio of December 2006 associated with the foreign patents to give the order of payment to DENNEMEYER at the end of October 2006.

d3) After August 28, 2006, I received the maintenance fee reminder table for due dates in December 2006 from DENNEMEYER (Exhibit D6). I put it into the portfolio of December 2006. I had to return the filled-out table by November 1, 2006.

d4) Up to September 2006, I finished the management of maintenance fees not invoiced because of the data migration from MisCab to Lola. For example I entered dates of payment instructions relating to the maintenance fees of foreign patents having reminders performed with MisCab by July 2006, payment instructions received after the data migration and payment orders forwarded to DENNEMEYER in July and August 2006 (e.g. Exhibit D7, journal of payment orders dated September 20, 2006).

From the end of September 2006, I could carry on the normal tasks of the monthly maintenance fee payment procedure defined hereinabove.

d5) On September 21, 2006, i.e. by the 20th of month M (September) about, I requested and printed the payment reminders of the maintenance fees due on December 2006 (month M+3) to LAVIE (Exhibit D8) relating to NACAM (Exhibit D9) and PASQUINI (principal: PRODHYFEM Development, then J&J ASSET SECURISATION) (Exhibit D10). I compared the payment reminders to the payment instructions for the patents in force in the portfolio of the preceding year, i.e. in December 2005. Finally I transmitted the payment reminders to the clients.

d6) On September 28, 2006, I requested to edit the monthly journal of reminders concerning due dates in December 2006. I checked the correspondence with the payment reminders to LAVIE, NACAM and PASQUINI (Exhibit D11: page 2/7, under LAVIE; page 3/7 and 4/7 under ZF Systèmes de Direction Nacam, lines 1 to 8 and 11 and under "NACAM FRANCE S.A. FACTURATION", lines 1 and 2. I also checked the correspondence with the payment reminders to ONERA for the US patent (Exhibit D11, journal of reminders: page 4/7, under ONERA - Fact. Ann.: "United States of America", "6,577,403"; Date of filing "06/10/03", Due date "12/10/06", maintenance fee: "1", Correspondent "DENNEMEYER") and the Singaporean patent 98758 2003/04539-0 (O/Ref ONE0011PCT/SG) (Exhibit D11: page 5/7, line 1).

It was comprehensible in the journal of reminders of September 28, 2006 with the due dates of December 2006 that I did not find

- the 11th maintenance fee of Canadian patent 1,338,792 (ONERPOUIT) because this 11th maintenance fee had the state "processed" since August 22, 2006, and

- the maintenance fees of French and European patents of ONERA with the due dates of December 2006 because I dealt with the payment of this French and European maintenance fees on September 20, 2006 and therefore because this French and European maintenance fees had the state "Processed" (Exhibit D7: journal of payment orders, under ONERA - Fact.

Ann., lines 1-3; page 2/3, lines 1-3; page 3/3, lines 3-4: country "EUROPE" or "FRANCE", Due date "12/31/06").

d7) On October 2, 2006, I received the payment instruction letters from LAVIE (Exhibit D6, stamp *Martinet & Lapoux*, "02 OCT. 2006"). I put them in the place of the respective LAVIE reminders in the portfolio of December 2006.

d8) At the latest, on October 23, 2006, via the automatic payment procedure, I requested to Lola the tables of the maintenance fees with the state "Reminded" and the due dates in December 2006 for the owners LAVIE and ONERA.

On the displayed table of maintenance fees for LAVIE and in accordance with the payment instructions letters from LAVIE (Exhibit D8), I entered the date of the payment instructions of October 2, 2006 and marked the eight maintenance fees of LAVIE patents (O/Ref: DIV162PCT) which passed from the state "Reminded" (Exhibit D11: journal of reminders with due dates in December 2006 dated September 28, 2006: page 2/7, under "LAVIE Philippe", lines 1 to 8) to the state "to be paid".

On the displayed table of maintenance fees for ONERA, I founded two maintenance fees at the state "Reminded": the first maintenance fee of US patent 6,577,403 (O/Ref: ONE0008US) and the fifth maintenance fee of Singaporean patent 98758 2003/04539-0 (O/Ref ONE0011PCT/SG) in accordance with the journal of reminders with due dates in December 2006, dated September 28, 2006, under "ONERA – Fact. Ann.", pages 4/7, last line and page 5/7, line 1 (Exhibit D7). In the displayed ONERA table, I entered the date of the payment instructions of July 3, 2006 and marked only the first maintenance fee of US patent 6,577,403 (O/Ref: ONE0008US) to be paid, in accordance with the payment instructions letter from ONERA.

In a different way from my usual practice for a group/family of patents, I did not mark the fifth maintenance fee of Singaporean patent 98758 2003/04539-0 in the displayed ONERA table as the journal of payment orders of October 23, 2006 (Exhibit D12) does not include this fifth maintenance fee: page 2/3, under "ONERA – Fact. Ann.". However, it was comprehensible that the 11th maintenance fee of the Canadian patent 1,338,792 (ONERPOUIT) which was at the state "processed" since August 22, 2006 (Exhibit D4, page 2, lines 3-4), was not displayed on the table for ONERA.

I launched for the due dates in December 2006 the automatic payment Lola procedure which edited the Lola journal of payment orders (Exhibit D12: Lola journal of payment orders of October 23, 2006: page 1/3, under "LAVIE Philippe", lines 1 to 6 and 8-9, due dates 12/31/06 and 12/27/06; page 2/3: under ONERA – Fact. Ann.: "United States of America", "6,577,403"; Date of filing "06/10/03", Due date "12/10/06", maintenance fee: "1") and, among others, the eight LAVIE invoices 06/006565 to 06/006570, 06/006572 and 06/006573 (Exhibit D13) and the ONERA invoice 06/006578 (Exhibit D14). In Lola, the state of the preceding nine maintenance fees changed from "Reminded" to "Processed". The invoice 06/006571 relates to the first maintenance fee of the US patent 6,557,996 in the LAVIE family DIV162PCT, also associated to the payment instructions of October 2, 2006 and with a due date on November 6, 2006.

I verified the nine edited invoices by comparison with the payment instruction letters from LAVIE and ONERA. I filled out the maintenance fee remind table of August 28, 2006 from DENNEMEYER by comparison with the payment instruction letters from LAVIE and ONERA. I wrote "Pn" for "maintenance fee to be paid" on each line mentioning one of the eight maintenance fees of patents LAVIE in the DENNEMEYER remind table (Exhibit D15 (=D6): Page 2/3: last five lines and page 3/3, lines 1-3, Our reference DIV062 for LAVIE). According to the copy of the invoice 06/006502 (Exhibit D5) relating to the 11th maintenance

fee of Canadian patent 1,338,792 put on August 22, 2006 into the portfolio of December 2006. I wrote "P" for "maintenance fee to be paid" on the last line of the DENNEMEYER remind table mentioning the eleventh maintenance fee (Exhibit D15: Page 3/3, last line of the table: Our reference ONERPOUIT).

US patent 6,577,403 (O/Ref: ONE0008US) had a first maintenance fee associated to payment instructions received on July 3, 2006 and was not included in the DENNEMEYER reminder table for due dates in December 2006. Because of a work overload at the end of October 2006, I forgot to edit and to transmit a letter of payment order relative to this first maintenance fee to DENNEMEYER in a way different from the procedure in place (see end of paragraph P4.5; and first example, n4) and n6): invoices of September 18, 2006 and two letters of payment orders transmitted to DENNEMEYER on October 2, 2006, for the three SOFITEC patents DIV0190DE/ES/SE). Tom HOFFMANN in DENNEMEYER confirms not to have received from MARTINET & LAPOUX any instructions to pay the first maintenance fee of US patent 6,577,403 (Exhibit D16; statement of October 5, 2012) and to have received (Exhibit D16, page 2, Enclosures) the remind table filled-out with the orders of payment on October 31, 2006 and four letters of orders of payment at the end of November 2006.

d9) On October 26, 2006, I received 12 payment instruction letters from NACAM (Exhibit D, stamp *Martinet & Lapoux*, "ACKNOWLEDGED" "26 OCT. 2006") and 21 payment instruction letters from PASQUINI/PRODHYFEM Development (Exhibit D10, stamp *Martinet & Lapoux*, "ACKNOWLEDGED" "26 OCT. 2006") relating to the due dates in December 2006. I put them in the place of the respective reminders in the portfolio of December 2006.

d10) The payment instructions from NACAM and PASQUINI/PRODHYFEM Development being received after the monthly payment Lola procedure of October 23, 2006, I decided to differ entering the date of payment instructions and editing the invoices.

I filled out the maintenance fee remind table of August 28, 2006 from DENNEMEYER by comparison with the payment instruction letters from NACAM and PASQUINI/PRODHYFEM. I wrote "P" for "maintenance fee to be paid" on each line mentioning one of 8 maintenance fees of NACAM patents (Exhibit D15: Our reference NACAM: page 3/3: lines 4-8, 10, 13 and 14, ) and on each line mentioning one of 21 maintenance fees of PASQUINI patents (Exhibit D15: Our reference DIV142 for PASQUINI: Page 1/3: except line 4 with "H", and page 2/3, lines 1-3, 5 and 7-10.), in the DENNEMEYER reminder table. As I had not instruction concerning the maintenance fees of three patents PASQUINI (O/Ref: DIV0142PCT BR/RO/NL), I wrote "H" for "to await subsequent instructions" on the lines concerning these three maintenance fees in the DENNEMEYER remind table (Exhibit D15: Our reference DIV142 for PASQUINI: page 1/3, line 4 and page 2/3, lines 4 and 6).

On October 31, 2006, I faxed the table of maintenance fee reminders concerning the due dates in December 2006 with the payment instructions to DENNEMEYER (Exhibit D15).

Thanks to the comparison between the payment instruction letters and the remind table from DENNEMEYER, I established (see Exhibit D0, Column "Not included in table, Letter to DENN, in red ink) that four patents NACAM (O/Ref: NACAM531ES/DE 509US and 518US) having a maintenance fee associated to received payment instructions were not included in the DENNEMEYER reminder table for due dates in December 2006. In addition, I deferred the letters of payment orders relative to the four patents NACAM to DENNEMEYER and the processing of these four patents NACAM in Lola.

d11) On November 15 and 16, 2006, I edited and transmitted other maintenance fee payment reminders concerning the three patents PASQUINI DIV0142PCTBR/RO/NL (Exhibit D17). I checked that the maintenance fees relative to these edited reminders were stored in Lola with "Reminded" (Exhibit D18, journal of reminders, November 16, 2006, under "PASQUINI Jean-Bastien", page 5/7, line 1: "BRESL" (BR), page 6/7, line 7: "PAYS-BAS" (NL = Netherlands) and page 7/7, line 1 "ROUMANIE" (RO = Rumania)).

d12) On November 21, 2006, I decided to terminate the invoicing relating to the remaining maintenance fees due on December 2006 that I have deferred. The date of November 21, 2006 made possible to have a few days by December 1, 2006 to deal with the remaining maintenance fees.

I used the manual payment procedure for the processing of the fifth maintenance fee of the Singaporean patent 98758 2003/04539-0 (O/Ref ONE0011PCT/SG). I selected the current date as date of the payment order date and the invoice. I edited the invoice 06/006584 (Exhibit D). The state of the maintenance fee of the Singaporean patent changed to "Invoiced", then to "Processed". I prepared a letter of payment order relating to the fifth Singaporean maintenance fee intended for DENNEMEYER.

Via the Lola automatic payment processing procedure, I requested the table of the maintenance fees with the state "Reminded" and the due dates in December 2006 for the owner NACAM. I considered the payment instructions and the abandonment instructions according to the reception order in the portfolio. I entered the date of the payment instructions of October 26, 2006 relating to seven foreign patents NACAM473DE, 497/DE/GB, 531ES/DE/BR, 534DE on the displayed table. I marked the seven maintenance fees, in addition to the marking of maintenance fees relative to French and European patents NACAM.. I launched the automatic procedure (Exhibit D20: journal of payment orders of November 21, 2006, 16:07: pages 1/3 and 2/3, under "ZF Systèmes de Direction Nacam, S.A.S") what edited seven invoices 06/06604 to 06/006611 (Exhibit D21).

d13) The next morning, on November 22, 2006, I ended the payment processing procedure relating to the maintenance fees of the remaining five NACAM473BR/ES/GB, 509US and 518US, and also the maintenance fees of the group of 21 PASQUINI patents DIV142PCT by entering the instructions date of October 26, 2006 and marking all the maintenance fees. The launched automatic procedure (Exhibit D22: journal of payment orders of November 22, 2006: page 1/5 under "ZF Systèmes de Direction Nacam, S.A.S" and under "NACAM FRANCE S.A. FACTURATION", and pages 2/5 to 5/5 under "PASQUINI Jean-Bastien") generated NACAM invoices 06/06618 to 06/006623 (Exhibit D23) and PASQUINI/J&J invoices 06/06624 to 06/006645 (Exhibit D24).

On November 23, 2006, I edited two letters of payment orders relating to the maintenance fees of the four patents NACAM531ES/DE, 509US and 518US not included in the DENNEMEYER reminder table and I faxed them to DENNEMEYER (Exhibit D25) (Exhibit D16, DENNEMEYER/Hoffmann pages 6 and 7).

d14) On November 27, 2006, I received the payment instructions (Exhibit D17, pages 1 and 3) relative to the maintenance fees of the three patents PASQUINI (O/Ref. DIV0142PCT BR/RO/NL) included with "H" in the filled-out DENNEMEYER reminder table for due dates in December 2006.

I requested the table of the maintenance fees with the state "Reminded" and due dates in December 2006 for the owner PASQUINI via the manual payment Lola procedure. I entered the date of the payment instructions of November 27, 2006 relating to each of maintenance

fees of the three above patents PASQUINI and marked them and I enabled the payment and the invoicing. I obtained the invoices 06/06647/8/9 (Exhibit D26).

I edited a letter of payment orders relating to the maintenance fees of the three patents PASQUINI (DIV0142PCT BR/RO/NL). I faxed it together with the letter of payment order relating to the fifth maintenance fee of the Singaporean patent 98758 2003/04539-0 (O/Ref ONE0011PCT/SG) on November 28, 2006 to DENNEMEYER (Exhibit D27).

d15) In December 2006, I checked the correspondence between the payment orders "P" for "maintenance fee to be paid" in the last faxed reminder table (Exhibit D15) and my letters (Exhibits D25 and D27) and invoicing tables of November 3 and 24, 2006 and December 1, 2006 (Exhibit D28) from DENNEMEYER.

- The invoicing table of November 3, 2006 included all the maintenance fees to be paid in the table of payment orders concerning the due dates in December 2006, faxed on October 31, 2006 to DENNEMEYER (Exhibit D15).

- The invoicing table of November 24, 2006 included the maintenance fees to be paid relating to the four patents NACAM531ES/DE, 509US and 518US in my two letters of payment orders of November 23, 2006 faxed to DENNEMEYER (Exhibit D25) (Exhibit D16).

- The invoicing table of December 1, 2006 included the maintenance fees to be paid a letter of payment orders relating to the maintenance fees of the three patents PASQUINI (DIV0142PCT BR/RO/NL) and the Singaporean patent 98758 2003/04539-0 (ONE0011PCT/SG) in my two letters of payment orders of November 27, 2006 faxed to DENNEMEYER (Exhibit D27) (Exhibit D16).

On December 11 and 28, 2006, MARTINET & LAPOUX paid the three invoices to DENNEMEYER by checks LCL N° 7988746 and 7988755 (Exhibit D28, handwritten on pages 3 and 5).

d16) Between December 15, 2006 and April 6, 2007, I received 13 listings from DENNEMEYER to which the official receipts and statements proving the payment of the maintenance fees with due dates in December 2006 according to my orders of payment were attached (Exhibit D29). After having checked that each received official receipt or statement associated to an instruction of payment and an order of payment, I archived the portfolio of December 2006.

d17) Particularly as far as the accountancy in association with US patent 6,577,403 is concerned, on November 13, 2006 I scanned the bank account of MARTINET & LAPOUX, I printed the bank wire transfer of 1639.27 Euros dated November 10, 2006 from "ONERA Chatillon" (Exhibit D30), corresponding to the invoice 06/006578 (Exhibit D14), and I recorded this transfer as an internal transaction "B11010". Then on receipt of the bank statement N°155 (Exhibit D31) of MARTINET & LAPOUX bank account dated November 10, 2006, I verified the debit and credit columns on this statement and I particularly pointed the "ONERA Chatillon" transfer of November 10, 2006 (Exhibit D31: statement N° 155, page 2, end of "CREDIT in EUROS" column, line "10.11 VIREMT ONERA Chatillon") relating to the amount of 1639.27 Euros

For preparing the 2006 balance of the MARTINET & LAPOUX office, I edited the subsidiary accounts of the clients, particularly the ONERA subsidiary account (Exhibit D32: in French "Grand-livre des tiers-Client") on January 30, 2007 indicating on the bottom of page 2 the ONERA transfer of November 10, 2006 (column Date, line "101106 ... B11010N") relating to the amount of 1639.27 Euros in the "credit" column; and I edited the bank special journal of November 2006 on April 06, 2007 (Exhibit D33) indicating on page 3,

lines 7-8, the ONERA transfer "BJ1010" of November 10, 2006 (day column "101106") relating to the amount of 1639.27 Euros.

d18) Up to June 30, 2008 I dealt with 450 to 500 maintenance fees per year, including 150 maintenance fees for foreign patents, without particular problems, with the exception of US patent 6,577,403.

From July 1, 2008, I ceased to manage the patent maintenance fees for the MARTINET & LAPOUX clients.

Between April and October 2008, I requested monthly tables of French patents and foreign patents in force, including a table of patents having dates of filing in June, to Lola on the server of MARTINET & LAPOUX. I sent them by email to François GEVERS and Anne HOTTAT in the division GEVERS RENEWALS in Belgium. I have not saved the emails and the tables. Thus in 2009, after the transfer of the MARTINET & LAPOUX activities, the division GEVERS RENEWALS could consider US patent 6,577,403 as being in force.

### CONCLUSION

According to the above chronology of events relating the due dates in December 2006, I show that I followed the steps P1-P6 relating to the procedure of maintenance fee payment derived by my predecessor, Mr. PLANNIER and approved by Mr. LAPOUX, and adapted to the operations of the software Lola.

To explain any breakdowns in the payment routines of MARTINET & LAPOUX and the reason why DENNEMEYER did not receive the order of payment of the first maintenance fee of US patent 6,577,403, I present the following comments.

On October 23, 2006, it is certain that I had in my hand the instructions of payment of July 3, 2006 from the Petitioner, ONERA, owner of US patent 6,577,403 (O/Ref: ONE0008US) to mark the first maintenance fee in the displayed table.

It is also certain that in a different way from the usual procedure in place (e.g. relating to the families with the three SOFITEC patents DIV0190DE/ES/SE in the first example (n4) and n6)); LAVIE (Exhibit D12), PASQUINI (Exhibit D22)), I did not end the marking of all the to-be-paid maintenance fees with due dates in December 2006 relating to the group/family of patents for the same client ONERA. An unforeseen event stopped my current storing of the payment instructions and constrained into finishing immediately the automatic payment Lola procedure. Accordingly, I did not marked the payment instructions of the fifth maintenance fee of Singaporean patent 98758 2003/04539-0 (O/Ref ONE001 IPCT/SG) (Exhibit D2) in the table displayed. It was unusual that I did not marked in the displayed ONERA table all the (i.e. two) maintenance fees of foreign patents from the same owner ONERA (same group/family) having due dates in December 2006, with the same instruction date of July 3, 2006.

In a way different from the usual procedure in place, because of a work overload, I did not prepare and print a letter of payment order relative to the first maintenance fee of US patent 6,577,403 (state changed to "Processed" after October 23, 2006) to DENNEMEYER at the end of October 2006, this first maintenance fee at the end of October 2006 having turned to the state "Processed" and being not included in the DENNEMEYER reminder table for due dates in December 2006. This opposes the procedure in place and my usual practice to



transmit such a letter of payment order of a maintenance fee in continuity with the Lola processing of the maintenance fee and particularly the change of the maintenance fee state from "Reminded" to "Processed" in Lola (e.g. the three SOFTEC patents DIV0190DE/ES/SE in the first example (n4) and n6)). In the other words, I enabled never the change of a maintenance fee to be paid to the state "Processed" in Lola without having transmitted the order of payment to DENNEMEYER at the latest during the few days (up to the end current month about) succeeding the change of state (except for the period of test of Lola). Usually when I had no time to deal entirely with the payment of a maintenance fee in Lola, firstly, I sent the order of payment to DENNEMEYER, and secondly, after this step, in the next month still preceding the due date, I dealt with the payment of a maintenance fee in Lola. There was nothing contrary to the payment steps in the procedure of MARTINET & LAPOUX.

According to a first example, I transmitted two letters of payment orders of the maintenance fees (Exhibit D25) relating to the 4 patents NACAM531ES/DE, 509US and 518U on November 23, 2006 in continuity with the Lola processing of these 4 maintenance fees on November 21 and 22, 2006 (Exhibits D20, D22). According to a second example, I transmitted a letter of payment orders of the maintenance fees (Exhibit D27) relating to the three patents PASQUINI (DIV0142PCT BR/RO/NL) on November 28, 2006 in continuity with the Lola processing of these three maintenance fees on November 27, 2006. According to a third example, I transmitted a letter of payment order (Exhibit D27) relating to the fifth maintenance fee of Singaporean patent 98758 2003/04539-0 (O/Ref ONE0011PCT/SG) on November 28, 2006 in continuity with the Lola processing of this maintenance fee on November 21, 2006. According to a fourth example, I transmitted two letters of payment orders relating to the maintenance fees of the three patents DIV0190DE/ES/SE for SOFTEC on October 2, 2006 (see above n6) in continuity with the Lola processing of these maintenance fee on September 18, 2006 (see above n4).

In particular, I forwarded the orders to pay the maintenance fees of the four patents NACAM531ES/DE, 509US and 518U on November 23, 2006 to DENNEMEYER (Exhibit D25), though these four maintenance fees did not appear in the DENNEMEYER reminder table for due dates in December 2006 (Exhibit D6) that I had filled-out and transmitted three weeks before, at the end of October 2006 (Exhibits D0). To forward the orders of payment I knew that on the one hand, Lola displayed the state "Reminded" of these four maintenance fee to be paid, on the other hand, I had the letters of payment instructions (Exhibits D0, D9) from the client NACAM in my portfolio of due dates in December 2006.

Comparatively to US patent 6,577,403 (O/Ref: ONE0008US) of which the first maintenance fee did not appear also in the DENNEMEYER reminder table for due dates in December 2006, I could not follow up the previous steps at the end of November 2006 because on the one hand, the first maintenance fee was passed to the state "Processed" and accordingly the next and second maintenance fee of US patent 6,577,403 were displayed as "In progress" after October 23, 2006, on the other hand, I had not the letter of payment instruction of July 3, 2006 from ONERA in my due date portfolio of December 2006. As already stated, I have not found the letter of payment instruction of July 3, 2006 in the archives of MARTINET & LAPOUX and in particular in my portfolio of due dates in December 2006.

Therefore because of the state "Processed" of the first maintenance fee of US patent 6,577,403 and my work overload on October 23, 2006 as well as the nonappearance of the letter of payment instruction of July 3, 2006 in my portfolio of the due dates in December

2006, there was nothing from the end of October 2006, to entice me, or encourage me, to identify a lack to pay this first maintenance fee by Monday, December 11, 2006, or with a surcharge subsequently during the period from Tuesday, December 12, 2006 through Monday, June 11, 2007.

Though I exercised the due care of a reasonably prudent person to manage the maintenance fees of MARTINET & LAPOUX in 2006, I could not avoid the delay in timely paying the first maintenance fee of US patent 6,577,403.

I am prepared to provide documents in other months up to March 2008, if requested.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine and imprisonment, or both, under 18 U.S.C. § 1001 of the United States Code.

November 2, 2012.

  
Sandrine HAMOUR

Encl.:

Exhibits ML1 to ML12, N1 to N11, J1 to J6 and D0 to D33